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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAVID A. PHILIP,

Plaintiff,

v.

BAC HOME LOANS SERVICING, LP,
et al.,

Defendants.

2:11-CV-1499 JCM (PAL)

ORDER

Presently before the court is defendants BAC Home Loans Servicing, LP, et. al.'s status report. (Doc. #10).

Defendants filed a status report, stating that a fully briefed motion to dismiss was pending before the court. (Doc. #10). Therefore, defendants asked the court to rule on their motion. Defendants further stated that the motion to dismiss was previously filed "inadvertently" in plaintiff's other case against defendants. (Doc. #10, citing *Philip v. BAC Home Loans Servicing, LP, et. al.*, 2:11-cv-1431-PMP-CWH, Doc. #4). Defendants attached a copy of the motion to dismiss, the opposition, and the reply, which were filed in the case before US District Court Judge Philip Pro, to their status report. (Doc. #10, Exs. A, B, and C).

When defendants removed this case to federal court, they attached a motion to dismiss and an opposition to this motion to dismiss to their petition for removal. (*See* Doc. #1, Exs. B and D). These documents had been filed in state court prior to removal. These briefs are not the same

1 moving briefs that were filed as attachments to the status report.

2 The intent of defendants' status report is unclear. The court cannot determine whether it
3 should rule on the documents in the petition for removal or the documents in the status report.
4 Further complicating the procedural background in this case, on November 22, 2011, Judge Pro ruled
5 on the motion to dismiss filed in 2:11-cv-1431-PMP-CWH. (*See 2:11-cv-1431-PMP*, Doc. #17).
6 This is the same motion that defendants attached to their status report, stating that the motion to
7 dismiss was filed inadvertently in Judge Pro's case.

8 Accordingly,

9 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that any pending motions to
10 dismiss in this case be, and the same hereby are, DENIED without prejudice.

11 IT IS FURTHER ORDERED that, if defendants wish to file a new motion to dismiss, they
12 must file their motion in the above-captioned case within 14 days of entry of this order.

13 DATED February 10, 2012.

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16 UNITED STATES DISTRICT JUDGE
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